United Nations A/C.5/65/L.17

General Assembly

Distr.: Limited
28 December 2010

Original: English

Sixty-fifth session
Fifth Committee
Agenda item 140
Administration of justice at the United Nations

Draft resolution submitted by the Chair of the Committee following informal consultations

Administration of justice at the United Nations

The General Assembly,

Recalling section XI of its resolution 55/258 of 14 June 2001 and its resolutions 57/307 of 15 April 2003, 59/266 of 23 December 2004, 59/283 of 13 April 2005, 61/261 of 4 April 2007, 62/228 of 22 December 2007, 63/253 of 24 December 2008 and 64/233 of 22 December 2009 and its decision 63/531 of 11 December 2008,

Having considered the reports of the Secretary-General on administration of justice at the United Nations[1] and on the activities of the Office of the United Nations Ombudsman and Mediation Services,[2] the report of the Internal Justice Council on administration of justice at the United Nations,[3] the letter dated 27 October 2010 from the President of the General Assembly to the Chair of the Fifth Committee,[4] the letter dated 5 November 2010 from the Secretary-General to the President of the Assembly[5] and the related report of the Advisory Committee on Administrative and Budgetary Questions,[6]

1. *Takes note* of the report of the Secretary-General on administration of justice at the United Nations[1] and on the activities of the Office of the United Nations Ombudsman and Mediation Services[2] and the report of the Internal Justice Council on administration of justice at the United Nations;[3]

2. *Reaffirms* its resolutions 61/261, 62/228, 63/253 and 64/233 on the establishment of the new system of administration of justice;

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[1] A/65/373 and Corr.1.
[2] A/65/303.
[3] See A/65/304.
[4] A/C.5/65/9.
[5] A/65/568.
[6] A/65/557.

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3. *Endorses* the conclusions and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions,[5] subject to the provisions of the present resolution;

I
System of administration of justice

4. *Notes with appreciation* the achievements produced since the inception of the new system of administration of justice in regard to both the disposal of the backlog and the addressing of new cases, despite the numerous difficulties faced during the implementation of the new system of administration of justice;

5. *Commends* the efforts of all who were involved in managing the transition from the previous internal justice system and those involved in the implementation and functioning of the new system of administration of justice;

6. *Emphasizes* the importance of the principle of judicial independence in the system of administration of justice;

7. *Reaffirms* its decision, contained in paragraph 4 of its resolution 61/261, to establish a new, independent, transparent, professionalized, adequately resourced and decentralized system of administration of justice consistent with the relevant rules of international law and the principles of the rule of law and due process to ensure respect for the rights and obligations of staff members and the accountability of managers and staff members alike;

8. *Acknowledges* the evolving nature of the new system of administration of justice and the need to carefully monitor its implementation;

9. *Stresses* that all elements of the new system of administration of justice must work in accordance with the Charter of the United Nations and the legal and regulatory framework approved by the General Assembly;

10. *Also stresses* the importance of ensuring access for all staff members to the new system of administration of justice, regardless of their duty station;

II
Informal system

11. *Recognizes* that the informal system of administration of justice is an efficient and effective option for staff who seek redress of grievances;

12. *Reaffirms* that the informal resolution of conflict is a crucial element of the system of administration of justice, and emphasizes that all possible use should be made of the informal system in order to avert unnecessary litigation;

13. *Notes* the increase of approximately 70 per cent, in the period from 2009 to 2010, in the number of cases received from United Nations Secretariat staff, including staff in field operations;

14. *Also notes* that the delayed response of departmental heads to the grievances of and issues raised by staff has an impact in respect of increasing the number of cases before the formal system of administration of justice;

15. *Requests* the Secretary-General to ensure that management responds to requests from the Ombudsman and Mediation Services in a timely manner, taking

into account paragraphs 129 and 130 of the report of the Secretary-General on the activities of the Office of the United Nations Ombudsman and Mediation Services,[2] and to report thereon to the General Assembly at its sixty-sixth session;

16. *Decides* to fix the term of the United Nations Ombudsman at five years, with the possibility of renewal for one additional term, and requests the Secretary-General to expeditiously conclude inter-agency negotiations on the revised terms of reference and to report to the General Assembly at its sixty-sixth session, including on the question of the eligibility of the head of the Office of the United Nations Ombudsman and Mediation Services for other employment in the United Nations after the expiration of his or her term, taking into consideration, inter alia, the potential impact on recruitment;

17. *Recalls* its requests to the Secretary-General, contained in paragraph 67 (a) of its resolution 62/228 and paragraph 21 of its resolution 63/253, to report to it on the revised terms of reference for the Office of the United Nations Ombudsman and Mediation Services, and requests the Secretary-General to ensure that the terms of reference and guidelines for the Mediation Division are promulgated as soon as possible;

18. *Also recalls* paragraph 12 of its resolution 61/261 and paragraph 25 of its resolution 62/228 regarding the establishment of a single integrated and decentralized Office of the Ombudsman for the United Nations Secretariat, funds, and programmes and requests the Secretary-General to ensure that the structure of the Office of the United Nations Ombudsman and Mediation Services reflects the responsibility of the United Nations Ombudsman for the oversight of the entire Office;

19. *Reaffirms* paragraph 29 of its resolution 62/228 regarding the process of nomination and appointment of the United Nations Ombudsman;

20. *Concurs* with the recommendations made in section V of the report of the Secretary-General on the activities of the Office of the United Nations Ombudsman and Mediation Services;[2]

21. *Recalls* paragraphs 11 and 12 of its resolution 64/233 and welcomes, in this regard, efforts taken by the Office of the United Nations Ombudsman and Mediation Services, including the launch of the key stakeholders forum, in order to promote greater harmony in the workplace;

22. *Also recalls* the recommendations contained in paragraphs 124 to 126 and 128 to 133 of the Secretary-General's report[2] and requests the Secretary-General to ensure the full implementation of those recommendations that are readily implementable and that do not require additional resources or amendments to the Staff Regulations and Rules, and to include all other recommendations in his proposed programme budget for the biennium 2012-2013;

23. *Notes* recommendation 4 in paragraph 129 of the Secretary-General's report[2] and requests the Secretary-General, in consultation with relevant stakeholders, to submit a proposal in this regard at its sixty-sixth session;

24. *Emphasizes* that it is important to ensure equal and continued access by all staff to the informal system of administration of justice, including to the rapid response teams;

25. *Recognizes* that the Office of the United Nations Ombudsman and Mediation Services has limited capacity to respond to crises and requests for in-person interventions of its current work in the field and requests the Secretary-General to address this limitation in future budget proposals;

26. *Requests* the Secretary-General to take fully into account the balance between the workload of the regional ombudsmen and the resources allocated to them in his future proposed programme budgets;

27. *Recalls* paragraph 13 of its resolution 64/233 and requests the Secretary-General to present a report on the activities of the Office of the United Nations Ombudsman and Mediation Services for consideration by the General Assembly during its sixty-sixth session;

28. *Decides* to revert to the proposal for biennial submission of the report of the Secretary-General on the activities of the Office of the United Nations Ombudsman and Mediation Services during its sixty-sixth session;

29. *Requests* the Office of the United Nations Ombudsman and Mediation Services to provide an informal briefing to the General Assembly at its sixty-sixth session on the financial and administrative implications resulting from settlements reached through informal dispute resolution, bearing in mind the confidential nature of individual settlement agreements;

III
Formal system

30. *Takes note* of paragraph 24 of the report of the Advisory Committee on Administrative and Budgetary Questions;

31. *Requests* the Secretary-General to continue current funding arrangements for the ad litem judges and the nine support staff until 31 December 2011, as adopted by the General Assembly in its decision 64/553 of 29 March 2010;

32. *Notes with appreciation* the important role of the Office of Administration of Justice in maintaining the independence of the formal system of justice and the progress made by its Executive Director during its first year;

33. *Welcomes* the launch of the Office of Administration of Justice website and requests the Secretary-General to continue improving its utility, effectiveness and user-friendly tools to enable an increased number of staff members to utilize the website, and to report to the General Assembly thereon during its sixty-sixth session;

34. *Recalls* paragraph 80 of the report of the Secretary-General[1] and requests the Secretary-General to present proposals on the appropriate post level for the Executive Director of the Office of Administration of Justice, and to report to the General Assembly at its sixty-sixth session in the context of the proposed programme budget for the biennium 2012-2013;

35. *Stresses* that professional legal assistance is critical for the effective and appropriate utilization of the available mechanisms within the system of administration of justice;

36. *Notes* the important role played by the Office of Staff Legal Assistance in providing legal assistance to staff members in an independent and impartial manner,

and also notes that the Office currently represents staff members in cases before the United Nations Dispute Tribunal in New York, Geneva and Nairobi;

37. *Reiterates its request* to the Secretary-General to work with staff associations in developing incentives to enable and encourage staff to continue to participate in the work of the Office of Staff Legal Assistance, including by providing volunteer professional legal counsel;

38. *Decides* that the role of professional legal staff in the Office of Staff Legal Assistance shall continue to be that of assisting staff members and their volunteer representatives in processing claims through the formal system of administration of justice;

39. *Welcomes* the establishment of the Trust Fund for United Nations Staff Legal Assistance, commends staff and associations that made contributions to the Trust Fund and encourages those that have not done so to make contributions thereto;

40. *Recalls* paragraph 14 of its resolution 63/253 and regrets that the Secretary-General did not include in his report[1] proposals for a staff-funded scheme in the Organization under which legal assistance and support would be provided to staff, and requests the Secretary-General to submit such proposals to the General Assembly no later than during its sixty-sixth session, including proposals that are based on a mandatory contribution from staff and proposals based on mixed funding, taking into account the views of relevant stakeholders;

41. *Requests* the Secretary-General to consider in his proposals on mixed funding opt-in and opt-out mechanisms as well as a system of fees proportionate to salary levels;

42. *Notes* that the current terms of the ad litem judges are about to expire, while the backlog remains to be cleared;

43. *Notes with appreciation* that the two half-time judges already appointed have facilitated the constitution of three-judge panels that will conduct hearings on important matters;

44. *Recalls* paragraphs 48 and 49 of its resolution 63/253, and requests the United Nations Dispute Tribunal to ensure that the best possible use is made of the three ad litem judges in order to reduce the existing backlog of cases before the United Nations Dispute Tribunal;

45. Requests the Secretary-General, in order to attract a pool of outstanding candidates reflecting appropriate language and geographical diversity, different legal systems and gender balance, to advertise Tribunal vacancies widely in appropriate journals in both English and French, and to disseminate information relating to the judicial vacancies to Chief Justices and to relevant associations, such as judges' professional associations, if possible, before those vacancies arise;

46. *Decides* to defer until its sixty-sixth session a review of the statutes of the Tribunals, in the light of experience gained, including on the efficiency of the overall functioning of the Tribunals, in particular regarding the number of judges and the panels of the United Nations Dispute Tribunal;

47. *Requests* the Secretary-General to report on the provisions needed for dedicated courtroom space in the three United Nations Dispute Tribunal locations;

48. *Notes with regret* that, with the current staffing of the United Nations Appeals Tribunal, the registry faces difficulties in preparing the legal memorandums and summaries of issues according to the requisite standard and with the speed necessary for the judges to carry out their work effectively and efficiently;

49. *Decides* to approve one legal assistant position (General Service (Other level)) for one year, to service the United Nations Appeals Tribunal and to be funded through general temporary assistance;

50. *Also decides* to revert to the issue of travel privileges and the level of the daily subsistence allowance for the judges of the United Nations Appeals Tribunal in the context of the proposed programme budget for the biennium 2012-2013;

51. *Endorses* paragraph 45 of the report of the Advisory Committee on Administrative and Budgetary Questions[6] and reiterates its request to the Secretary-General to present to the General Assembly at its sixty-sixth session a report containing a detailed proposal regarding possible options for delegation of authority for disciplinary measures;

52. *Stresses* that the Internal Justice Council can help to ensure independence, professionalism and accountability in the system of administration of justice and encourages the Council to continue to provide its views on the implementation of the system of administration of justice and, if it deems necessary, on how to enhance its contribution to the system, and to report thereon to the General Assembly at its sixty-sixth session;

53. *Requests* the Secretary-General to include in his report to the General Assembly at its sixty-sixth session, the following information, bearing in mind the principle of judicial independence:

(a) Clear statistics on the cases received and disposed of during the period by both Tribunals, including information, by category, on whether the judgements rendered found for the applicant or for the respondent and on the administrative issues involved;

(b) Analysis of trends over a number of reporting periods in order to identify systemic issues leading to usage of the system of justice and to monitor whether they are being effectively addressed over time;

(c) Detailed information on monetary compensation awarded, and indirect costs associated with an appeal, for example, in staff time, including identification of those aspects of staff administration that give rise to large numbers of appeals;

(d) Detailed information on payments of compensation to staff equal to six months of salary or more, with an indication of the offices or departments concerned, the location of these offices or departments and some details of the facts of the case;

54. *Recognizes* that the introduction of the new system of administration of justice should, inter alia, have a positive impact on staff-management relations and improve the performance of both staff and managers, and requests the Secretary-General to report thereon at its sixty-sixth session;

55. *Requests* the Secretary-General, with regard to the scope of the system of the administration of justice, in particular remedies available to the different categories of non-staff personnel, to provide more concrete information for

consideration by the General Assembly at its sixty-sixth session, taking into account the different categories of non-staff personnel concerned, as noted in the report of the Secretary-General on the administration of justice,[1] and paragraph 8 of its resolution 64/233, as well as the options referred to in paragraph 9 of that resolution;

56. *Recalls* paragraph 13 of its resolution 63/253, and decides to revert to the mandate and functioning of the Office of Staff Legal Assistance, including the participation of current and former staff as volunteers, at its sixty-sixth session;

IV
Financial implications and cost-sharing arrangements

57. *Recalls* paragraph 62 of its resolution 62/228 and notes with concern the delay in finalizing an agreement with the funds and programmes on a cost-sharing arrangement, and in this regard urges the Secretary-General to expeditiously conclude the negotiations and to report thereon to the General Assembly during its sixty-sixth session;

58. *Notes* that many of the issues described by the Secretary-General in section IV of his report[1] are still under consideration in the formal system of administration of justice;

V
Other issues

59. *Reaffirms* that the Fifth Committee is the appropriate Main Committee of the General Assembly entrusted with responsibilities for administrative and budgetary matters, and reaffirms the role of the Fifth Committee in carrying out a thorough analysis and approving human and financial resources and policies, with a view to ensuring full, effective and efficient implementation of all mandated programmes and activities and the implementation of policies in this regard;

60. *Invites* the Sixth Committee to consider the legal aspects of the reports to be submitted by the Secretary-General, without prejudice to the role of the Fifth Committee as the Main Committee entrusted with responsibilities for administrative and budgetary matters;

61. *Recalls* paragraph 9 of its resolution 61/261 and requests the Secretary-General to report on the need for enhancing education and training of all judges, ombudsmen, legal representatives, registrars, mediators and court and office staff of the new system of administration of justice, as recommended by the Redesign Panel on the United Nations system of administration of justice in paragraphs 115 to 119 of its report;[1]

62. *Decides* to include in the provisional agenda of its sixty-sixth session the item entitled "Administration of justice at the United Nations".

[1] A/61/205 and Corr.1